

UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

In re:

Case No. 08-61120

ABDUL CHIRRI,
and
BETTY M. CHIRRI,

Chapter 7

Judge Thomas J. Tucker

Debtors.

**ORDER DENYING, WITHOUT PREJUDICE, DEBTORS' MOTION TO
CONVERT CHAPTER 7 CASE TO CHAPTER 13**

On October 15, 2008, Debtors filed and served a "Motion to Convert a Case Under Chapter 7 to a Case Under Chapter 13" and a 15-day notice of the motion (Docket # 15). On November 4, 2008, the Court entered its "Order Requiring Debtors to File and Serve a 20-Day Notice of Their Motion to Convert to Chapter 13" (Docket # 18), which provided in relevant part:

IT IS ORDERED that Debtors must file and serve on all creditors, **no later than November 6, 2008**, a corrected notice of their motion to convert, which states that parties in interest who oppose the Court granting the motion must file with the Court a written response or answer **within 20 days** of service of the notice. Debtors also must file and serve, no later than November 6, 2008, a proof of service showing compliance with the service requirement of this Order.

IT IS FURTHER ORDERED that if Debtors fail to comply with this Order, the motion to convert may be denied without further notice or hearing.

On November 4, 2008, Debtors filed a "Corrected Notice of Motion to Convert a Case Under Chapter 7 to a Case Under Chapter 13" (Docket # 19), which did not comply with the Court's November 4, 2008 Order. The Corrected Notice stated in relevant part:

Law Office of Ray G. Tallerday, has filed a Motion to Convert a

Case Under Chapter 7 to a Case Under Chapter 13.

If you do not want the court to grant the **Motion to Waive Debtor's Appearance at 341 First Meeting of Creditors**, or if you want the court to consider your views on the motion, within 20 days you must . . . [f]ile with the court a written response or answer explaining your position[.]

...

If you mail your response to the court for filing, you must mail it early enough so the court will receive it before the expiration of the **15 day period stated above**.

(bold emphasis added). Because the Corrected Notice misstates the name of the motion, and states that parties must mail their responses so that the Court will receive them within 15 days, it does not properly provide the 20-day notice that the Court required in its November 4, 2008 Order.

Accordingly,

IT IS ORDERED that Debtors' "Motion to Convert a Case Under Chapter 7 to a Case Under Chapter 13" (Docket # 15) is DENIED, without prejudice to Debtors' right to file and serve a new motion to convert the Chapter 7 case to Chapter 13 and a proper 20-day notice.

Signed on January 07, 2009

/s/ Thomas J. Tucker

Thomas J. Tucker
United States Bankruptcy Judge